

Bringing Conflict Resolution Techniques to Child Welfare

CINA/TPR MEDIATION ON THE RISE

By Carolyn Ross, Esq., FCCIP Specialist

Maryland juvenile courts throughout the state are utilizing alternative dispute resolution (ADR) in Children in Need of Assistance (CINA) and Termination of Parental Rights (TPR) cases, aiming for a faster moving court docket and improved permanency outcomes for children and families.

The Mediation and Conflict Resolution Office (MACRO), a court-related agency, counts among its grantees 13 programs focused on the promotion of mediation in child welfare cases. In jurisdictions including Allegany, Anne Arundel, Charles, Frederick, Harford, and St. Mary's counties, the Department of Family Administration's Foster Care Court Improvement Project grants have spawned programs focused on achieving permanency faster for kids involved in CINA and TPR cases. The number of cases referred to mediation is growing, and in many cases litigants now request additional mediation sessions rather than turn to the courtroom, reports Jennifer K. Cassell, Family Law Administrator in Anne Arundel County, where the Circuit Court's CINA/TPR Alternative Dispute Resolution Program began in 2003.

[cont. on 6](#)



Juvenile Competency Bill Takes Effect

LAST YEAR'S BILL AND NEW BILL TO IMPROVE HANDLING OF COMPETENCY IN JUVENILE COURT

By Joan Dudley, Esq., Juvenile Justice Specialist

inside

| | |
|--|----|
| MD CASA Honors Judge Horne | 3 |
| Enforcement Tools under the UCCJEA | 4 |
| New Faces | 9 |
| POARP Goes Hispanic | 10 |
| Family Bills that Became Law | 14 |
| Family Law Decisions | 20 |

A bill which took effect this fiscal year and a sister bill introduced this session will improve the court's ability to deal with competency issues when raised in juvenile court.

Last year's juvenile competency bill, HB 802/05, took effect December 31, 2005. Prior to the new statute, courts handled juvenile competency issues differently from jurisdiction to jurisdiction. Some jurisdictions used bits and pieces from the "adult" competency statute, while other jurisdictions adopted their own judicial procedures when faced with making decisions for juveniles with questionable mental challenges.

[cont. on 8](#)

Facing the Faceless

The Pale Green Pants with Nobody Inside Them



Pamela Cardullo Ortiz,
Executive Director
Family Administration

If you are not yet familiar with it, I highly recommend the Dr. Seuss tale, “The Pale Green Pants with Nobody Inside Them.” It is one of Dr. Seuss’ lesser known tales. In the story, the unnamed protagonist, while out and about, catches a glimpse of a pair of “pale green pants with nobody inside them” walking towards him. The protagonist screams and runs away in fear. Throughout the story, the protagonist lives in constant fear of the “pale green pants with nobody inside them.” After several sightings and much anxiety, the protagonist and the pants run into one another and the storyteller realizes that the “pale green pants with nobody inside them” have been just as afraid of him as he has been of them. They make their peace with one another and go on to live happy lives, no longer constantly afraid, and able to share the same world.

I have a sense that, when it comes to dealing with the self-represented, our courts are a little bit like the protagonist in that story. The self-represented are, of course, the “pale green pants with nobody inside them.” The pale green pants are out there. Many of us, however, would prefer to live in a world where there were no pale green pants, no self-represented litigants. Without a lawyer, those litigants may be invisible to the justice system, not unlike the “nobody” inside those pale green pants. We may have no viable mechanism for communicating with persons without counsel. The pale green pants do not exist.

And yet they do. With or without resources to aid them, the self-represented are appearing in our courts. During the last fiscal year, 68 percent of domestic cases in Maryland included at least one self-represented litigant at the time the answer was filed. That figure increases to 86 percent in Baltimore City, with Maryland’s largest share of poverty and poverty-related issues. Rates of self-representation are understandably high in uncontested matters (81 percent) but surprisingly high as well at the time of contested domestic trials (71 percent). Thirty-nine percent of contested domestic trials in Maryland include two or more self-represented litigants. In Maryland we have come to recognize that we cannot manage an effective family justice system without responding to these large numbers of individuals operating without counsel. We hope soon to begin a conversation in the near future to look at their impact on the justice system as a whole. It is time to face the “pale green pants with nobody inside them.”

One of the biggest challenges we face in exploring this issue are the limitations imposed by the demands of fairness and neutrality. How can the courts address the needs of the self-represented without creating an unfair advantage for those individuals? Without compromising the neutrality of the Judiciary? How can they make the system easier for those without counsel while maintaining the independence of the Judiciary?

cont. on 23

family matters

We welcome your comments and contributions.

Please call or write: Pamela Cardullo Ortiz, Exec. Director

Department of Family Administration, Administrative Office of the Courts

Maryland Judicial Center, 580 Taylor Ave., Annapolis, MD 21401 (410) 260-1580

www.courts.state.md.us/family

A publication of the Department of Family Administration of the Maryland

Administrative Office of the Courts. Graphic design by Court Information Office.

Regular contributors at the Department of Family Administration include: Joan Dudley, Clifton Files, Hope Gary, Althea Stewart Jones, Erica LeMon, Pamela Cardullo Ortiz, Carolyn Ross, and Tracy Watkins-Tribbitt.

Maryland CASA Honors Judge William S. Horne with its Light for Children Award

by Althea Stewart Jones, Esq., Deputy Director, Family Administration

The Maryland CASA (Court Appointed Special Advocate) Association honored Retired Talbot County Circuit Judge William S. Horne (retired), Circuit Administrative Judge of the Second Judicial Circuit, at its third annual *Light for Children* reception in Annapolis. Judge Horne was presented with the *Light for Children Award* for his efforts in supporting the Talbot County CASA program. Judge Horne, in his most humorous fashion, relayed that, "Unlike other award recipients, I am not going to say

that the award is not deserved. In fact, the award is deserved.... but it is deserved by the CASA program staff and volunteers in Talbot County."

Judge Horne told his audience that he appoints a CASA in all of his Child in Need of Assistance (CINA) cases and finds that the CASA reports greatly assist him in making decisions in the best interest of children. The Talbot County CASA program has been in existence since April 1990.

There are currently 14 CASA programs in Maryland serving 16 jurisdictions. Judge Horne strongly encouraged those jurisdictions without CASA programs to create one.

Among the many legislators who attended the *Light for Children Reception* was Del. Anthony Brown, last year's recipient of the *Light for Children Award*. In presenting the award to Judge Horne, Del. Brown commended Judge Horne, as well as the CASAs, in making a valuable contribution to abused and neglected children. Although CASAs spoke on behalf of 1,300 children in 2005, there are still more than 11,000 abused and neglected children

who did not have a CASA. One of the priorities for Maryland CASA is to support increased funding so that CASA programs will be able to serve more of Maryland's children.

For the judges, legislators, agency representatives, CASA volunteers, and other child advocates attending the *Light for Children Reception*, the sentiment in the room was one of great pride in and support of Maryland's CASA programs, together with a sense of responsibility to do more.



Judge William S. Horne, honoree; Robin Davenport, executive director, Talbot CASA; Talbot County Circuit Judge Sidney S. Campen; and Somerset County Circuit Judge Daniel Long, Circuit Administrative Judge of the First Judicial Circuit.

Registration, Enforcement, and Warrants

Three Enforcement Tools

by Pamela Cardullo Ortiz, Exec. Dir., Family Administration

Several provisions of the *Uniform Child Custody Jurisdiction Enforcement Act* (UCCJEA) help courts more effectively aid custodians in enforcing out-of-state orders in Maryland.

The UCCJEA is found in the Family Law Article, Title 9.5, of the Maryland Code. Those same provisions may be used by custodians with a Maryland order seeking to enforce that order in another state which has adopted the UCCJEA.

Registration

A child custody determination made by another state may be registered in Maryland with or without a simultaneous petition for enforcement, according to FL § 9.5-305. The person requesting registration must send a letter or other document to the court requesting the order be registered. The request must be accompanied by the following:

- Two copies of the order to be registered, one of which must be *certified*.
- A statement, under penalty of perjury, that to the best of the knowledge and belief of the person seeking registration the order has not been modified.
- The name and address of the person seeking registration and that of any parent or other person who has been awarded custody or visitation in the order. [*Persons requesting registration may have their address or the address of the children sealed if disclosure would place them at risk. See FL§ 3.5-209.*]

No Service - Court Responsible for Notice

Under the registration provisions of the UCCJEA, the person requesting the order be registered does not serve the opposing party in Maryland with the request. Rather, the court is obliged, under FL § 9.5-305(b)(2)-(c), to serve notice upon the persons listed in the

request. The required notice informs interested persons that they may request a hearing to contest the validity of the registered order within 20 days after service of the notice.

If a timely request for a hearing is not made, the registration is confirmed as a matter of law, and the court must notify all persons served of the confirmation.

Enforcement

A person seeking to enforce an out-of-state custody order must first register their order; they may then file a petition to enforce the order in Maryland. The request for registration and the petition for enforcement may be filed simultaneously.

The petition for enforcement must include the following:

- A verified petition.
- Certified copies of all orders to be enforced. A copy of a certified order may be attached instead of the original.
- A copy of any order confirming the registration of the order to be enforced.

In addition, the following statements are required in the petition:

- Whether the court that issued the order identified the jurisdictional basis it relied on and what that was;

under the UCCJEA



- Whether the order has been stayed, modified or vacated and if so, appropriate information about the proceeding in which that occurred;
- Related cases that might affect this one;
- The present physical address of the child and the respondent *{address of child may be placed under seal if necessary pursuant to FL §9.5-209}*;
- Any additional relief sought, including assistance of law enforcement;
- If the order has been registered, the date and place of registration.

Service

Unless the petitioner is also asking for a warrant, the petitioner must file the petition, and when the summons has been issued, properly serve the respondent with the writ of summons, the petition, and any accompanying documents.

If the petitioner is asking the court to issue a warrant, then the petitioner should *not* serve the respondent. In that instance, the court should have the respondent served with the petition for enforcement at the time the warrant is served and the children are taken into custody.

Warrant

One provision of the UCCJEA that has not often been used in Maryland concerns the issuance of a warrant. FL §9.5-311 provides that, when a petition for enforcement is filed, the petitioner may also file

a verified application for the issuance of a warrant to take physical custody of the child, if the child is likely to suffer “serious physical harm or be removed from this State.”

The Act further provides that, if on the testimony of the petitioner or other witnesses, the court finds those conditions exist, the court may issue the warrant. The warrant is enforceable throughout the state. If the court finds that a less intrusive mechanism is not effective, the court may authorize law enforcement officers to enter private property to take custody of the child, or if required by exigent circumstances, to make a forcible entry. FL §9.5-311(e).

The respondent should be served with the petition, warrant and order immediately after the child is taken into custody.

The court must hear the petition on the next judicial day after the warrant is executed, unless that date is impossible. FL §9.5-311(b)(2).

Finally, the court can impose conditions on the placement of a child to ensure the appearance of the child and the child’s custodian. FL §9.5-311(f).

New Forms for Registration, Enforcement

The Judiciary has developed domestic relations forms to aid self-represented litigants in registering their foreign order and filing a petition for enforcement. Forms are available on the Domestic Relations Forms Web site at: <http://mdcourts.gov/family/forms/index.html>.

Conflict Resolution and

What are some other signs of success and best practices for programs that may be struggling to make mediation an appealing alternative to the courtroom? First, continuing education and support of all stakeholders is essential. Whether the issue is attorneys more clearly defining mediation goals and better preparing their clients, or programs understanding the expectations and perceived drawbacks among stakeholders, the shift to ADR is a slow but evolving process in the experience of many coordinators.

The Maryland Judiciary's Family Court ADR Program Best Practices document emphasizes balancing the needs of families, ADR professionals, the community, and the court. For parties, explaining their legal rights and remedies, promoting child-focused decision making, and providing information in a variety of formats and locations leads to effective participation. For court and ADR professionals, meeting and networking opportunities, observation opportunities, and coordination of the timing and order of events to complement the flow of family cases, is encouraged.

New programs must "take heart" says Sharon Iannacone, director of the Office of Family Court Services for Harford County, who shares that while some of the Harford stakeholders had initial misgivings about the use of mediation, the feedback is now extremely positive. Even when the parties walk away from the table without an agreement on paper, she notes, the mediation process has made a difference in the ability of all parties to communicate better, learn where alternative paths may lead, and perhaps reach lasting agreements. Family Support Services Coordinator Linda Grove of St. Mary's County agrees. The self-empowerment mediation

can offer parties is important, as she learned

when one parent following a mediation session reported to her, "This was the first time I felt I had a voice."

Courts and program coordinators can emphasize the neutrality of mediators and efforts should be made to communicate the role of the mediator effectively to parties and to counsel. Encourage mediators at the start of their sessions to orient parties briefly and discuss the mediator's qualifications — most programs require an additional 32-40 hrs of training specifically tailored to CINA and TPR law. Knowing the mediators qualifications can help parties appreciate the mediator's neutral role. Encourage mediators to elicit evaluative feedback throughout the process. A step further, suggests Grove of St. Mary's, is implementation of a written grievance procedure when a participant wishes to lodge a complaint about a mediator's handling of the case.

Next, clear policies and scheduling guidelines are keys to a program's continued success. While education about the benefits of mediation is helpful, sitting down with a calendar and actually scheduling sessions to bring as many as 10 parties to the table may prove daunting. "It took awhile for us to agree as a team to set aside the time," Iannacone comments. Harford mediations are now held every third Monday of the month, allowing parties to set schedules ahead of time. In St. Mary's, Grove calls

potential mediators ahead of the court's scheduled CINA day to get dates of availability. Differentiated case management in Montgomery County prioritizes mediation by automatically setting a date two weeks following a shelter care proceeding for a pre-trial settlement hearing, allowing for earlier resolutions to many CINA cases.

[cont. on next](#)



Child Welfare, from 1

Programs seeking to introduce mediation earlier in the process must focus on keeping the lines of communication open and encouraging less traditional sources of referrals and requests for mediation such as children's attorneys and the local departments of social services. According to information published by the **Judicial Education Center of New Mexico (JEC)** in its **Child Welfare Benchbook**, there is "some evidence that mediation tends to be most successful when offered early in the case." Furthermore, involving many stakeholders, including the Court Appointed Special Advocate (CASA) in the process is beneficial and should be encouraged according to JEC. As JEC states "Buy-in' from lawyers, social workers, treatment service providers, CASAs and others" is essential along with "regular contact with participants to address any concerns that they may have." Adds Anne Arundel's Cassell, achieving that "buy-in" may just be a matter of talking with judges about referral rates, raising awareness, and reminding court officers and others of the availability of program resources, even if the case ends up taking the courtroom route.

Resources in Maryland

- Maryland Judiciary's Family Court ADR Program Best Practices (also available in hard copy, call (410) 260-1262) provides an overview of the collected wisdom on successful family mediation programs, including child access cases: http://mdcourts.gov/family/bestpractices_familyadr.pdf

- Maryland's Mediation and Conflict Resolution Office (MACRO), anticipating a revamp of its Web site, offers several resources, including funding and expertise of its staff: <http://mdcourts.gov/macro/index.html>

- Foster Care Court Improvement Project (FCCIP), a unit of the Department of Family Administration in the Administrative Office of the Courts, announces a Notice of Funding Application process every spring for programs and projects

designed to assist courts in processing of CINA and related TPR and adoption cases: <http://mdcourts.gov/family/fccip/index.html>

Resources in Other States

- Information on mediation in child welfare cases from the Judicial Education Center of New Mexico (JEC) Child Welfare Benchbook: http://jec.unm.edu/resources/benchbooks/child_law/ch_29.htm#29-4

- Information on Utah's child welfare program: <http://www.utcourts.gov/mediation/cwm/>

- Newsletter article describing the progress of "permanency mediation" programs in New York State: http://www.ocfs.state.ny.us/main/publications/Challenges_SolutionsVol2No1Spring2004.pdf

National Resources

- This National Center for State Courts article covers basics of child welfare mediation and provides two links to other national organizations, The Association of Family and Conciliation Courts and the National Association of Juvenile and Family Court Judges: http://www.ncsconline.org/WC/Publications/KIS_ADRMed_Trends99-00_Pub.pdf

- The Ohio State University College of Law offers "A Guide For Courts: Mediating Conflicts Involving Children and Families" with a chapter on child protection mediation, with a textbook-style introduction to the concepts: http://www.sconet.state.oh.us/dispute_resolution/student-book/default.asp

- Web site of the Conflict Resolution Information Center provides 16 citations to a variety of relevant articles about child welfare mediation: http://www.crimfo.org/action/recommended.jsp?nid=-1&list_id=832

Competency Issues Bill, from 1

Under HB 802/05, the juvenile court has the authority to stay the proceedings and order an evaluation of the juvenile's mental conditions and developmental levels when the youth's competency is in question. Through evidence presented, the court must first determine whether there is probable cause to believe the juvenile committed the delinquent act and if the juvenile is incompetent to proceed in an adjudication, disposition, waiver, or violation of probation hearing. Once the court affirms the findings above, the proceeding is stayed. The court must then issue an order for an "outpatient" competency evaluation. The court cannot order the juvenile to be detained for the purpose of the competency evaluation, and the child's attorney may also be present during the evaluation.

A court order directs a qualified expert to perform the competency evaluation and produce a written report within 45 days, or upon a showing of good cause. An extension of up to 15 days may be granted. Failure of a qualified expert to file a timely report is not, by itself, grounds for dismissal of the petition. A copy of the written report must be submitted

to the Department of Juvenile Services, the State's Attorney, and the child's attorney. The State's Attorney, however, has the burden to prove the juvenile is competent. The juvenile's attorney may also introduce evidence and produce witnesses to show the juvenile is incompetent to stand trial. If, after hearing all the evidence and testimony, the court determines the juvenile is competent, the stay is lifted and the court may proceed on the original petition.

If, however, the court determines the juvenile is incompetent to stand trial, and the qualified expert's report reflects that competency can be attained within the foreseeable future (three months),

the court can order the juvenile to participate in an involuntary treatment plan under the direction of the Department of Health and Mental Hygiene. Alternatively, the court may dismiss the petition.

If the court determines the juvenile is incompetent and the qualified expert's report states the juvenile cannot attain competency within the foreseeable future, the court can order the juvenile to remain under its jurisdiction for a maximum of three years for a felony-type petition and one year for a misdemeanor-type offense. After these time periods have been met, the court must dismiss the original petition if the juvenile is still incompetent and order commitment to the Department of Health and Mental Hygiene.

Missing from the statute is guidance on what determines whether the juvenile is incompetent, how the competency evaluation will be performed, as well as the identity and training of local "qualified experts" in each jurisdiction. A working group comprised of judges, attorneys, representatives of the Department of Mental Health and Hygiene and other agencies, and legislators has drafted a bill to address these concerns. At the time of this writing, that bill, HB 1257/SB 808, had been signed into law by Gov. Ehrlich.



New Faces at FCCIP

By Tracy Watkins-
Tribbitt, FCCIP
Director

Erica LeMon

The Foster Care Court Improvement Project (FCCIP) is pleased to introduce Erica LeMon, Esq. LeMon joined the staff of the FCCIP in December as the new Permanency Court Coordinator and will be working closely with the Permanency Planning Liaisons and members of the Legislative Subcommittee. LeMon has brought with her an array of experience and talents.



A graduate of West Virginia University Law School, LeMon comes to the Administrative Office of the Courts (AOC) from the law firm of Randall and Sonnier, LLC, where she primarily represented Children in Need of Assistance (CINA). She advises that she was drawn to applying for this position with the FCCIP because “I was always impressed with the presentation and the policies of the FCCIP.” She says that she wants to make a difference in policy to improve matters for children all over Maryland. The FCCIP is most pleased that LeMon brings the viewpoint of someone who has handled CINA/TPR cases in the largest jurisdiction in the state, Baltimore City. Her practical experience in representing children will be a great asset to the FCCIP.

In her spare time, LeMon advises that she loves spending time with her family, participating in church activities. She is also an avid reader and enjoys going to her book club meetings.

“I am very excited about my new position and I look forward to making a substantial contribution to continue the FCCIP’s efforts to continue to improve the handling of CINA and TPR cases in the courts,” LeMon said.

Carolyn Ross



The FCCIP is also excited to welcome Carolyn Ross, Esq, who joined the staff of the FCCIP in December, and serves as FCCIP Specialist. She will be working closely with the Statistics Subcommittee.

A native Marylander, Ross went to school at St. Mary’s College and the University of Maryland. She obtained her law degree from Vermont Law School. Ross brings prior experience in health care administration, environmental conservation, academic tutoring, and as a federal contractor for the Department of Energy and the Department of the Interior. Her connection to child welfare developed while she served as a Court Appointed Special Advocate (CASA) in Montgomery County. When asked about what drew her to this position, Ross said, “I liked the idea of working for a branch of government where I can utilize my law training and not be boxed in by law practice.” She also added that she would like to bring creativity and energy to the FCCIP’s important goals.

Regarding spare time, Ross said, “I like to think of ways to have more spare time, and if I have some, I like to travel as much as possible, read the newspaper, go on walks with my husband, and swim regularly for exercise and relaxation.”

The Department of Family Administration is pleased to have a full complement of staff with these two new additions. Welcome aboard, Erica and Carolyn!

POARP Reaches out to

By Clifton Files, Esq., Domestic Violence Specialist

A new initiative undertaken by the Judiciary and the House of Ruth will enhance the ability of court-based Protective Order Advocacy Representation Projects (POARP) to identify and respond to the needs of Spanish-speaking victims of domestic violence. The Department of Family Administration of the Administrative Office of the Courts was awarded a Violence Against Women Act of 2000 Services, Training, Officers, and Prosecutors (VAWA STOP) Grant this year to fund a Court Victim Safety Initiative project in Prince George's County. The initiative will enhance the Maryland Judiciary's efforts to ensure victim safety through its existing innovative court-based POARP projects which provide on-site domestic violence legal services in a number of Maryland courts. The "Hispanic Outreach" initiative will permit Spanish-speaking advocates at the House of Ruth to: i) train POARP attorneys working in the Maryland courts to respond effectively to the needs of Spanish speaking victims; and ii) conduct outreach in the Hispanic community regarding the POARP projects as well as the Judiciary's forms and web-based resources in Spanish, so that victims are aware of and may take advantage of these resources.

Maryland courts operate and refer victims to a number of programs designed to aid them in seeking protection through the courts. There may, however, be many obstacles impeding a victim's ability to seek protection. The victim may be forbidden to leave the house or watched constantly. Phone calls or access to a family vehicle may be restricted. To enhance the safety of victims of family violence, the Maryland Judiciary operates a network of programs to ensure that those victims can access the legal system to obtain protection. A number of circuit court and District Court locations provide on-site legal services programs to victims in the courthouse, funded by the Administrative Office of the Courts. Operated by local domestic violence advocacy organizations, these POARPs have become a cornerstone of the safety net provided to victims through the Maryland courts. Victims can meet with a

paralegal or attorney, discuss the steps necessary to ensure their safety, obtain

assistance in applying for a temporary protective order, and obtain representation at a subsequent protective order hearing, all without leaving the courthouse. The POARP model was developed in conjunction with project partners, the Women's Law Center of Maryland, Inc., and the House of Ruth. These two organizations operate and manage all POARP sites.

In addition to the POARP projects, the Maryland Judiciary funds similar on-site and off-site domestic violence legal services projects serving Allegany, Anne Arundel, Caroline, Calvert, Charles, Dorchester, Kent, Queen Anne's, Somerset, St. Mary's, Talbot, Washington, Charles, St. Mary's, Calvert, Anne Arundel, Kent, Wicomico, and Worcester counties.

Members of the Hispanic and foreign-born communities face additional barriers in seeking safety and protection services. In addition to the problems all family violence victims face, immigrants and non-English speakers may be fearful of seeking assistance through a court where they will confront law enforcement officers, and where they may fear their immigration status will be challenged or called into question. Members of the Hispanic community may come from countries where the justice system operates quite differently from the American civil justice system. They may have different assumptions about the roles of attorneys. For example, in many Hispanic cultures, *notarios* play an important role offering legal services, which is a much different role from a notary public in the U.S. They may not know to whom they can go for legal advice and assistance. They may also harbor different assumptions about the role of judges and the courts based on their experience in their country of origin. Finally, they may be intimidated or unable to seek assistance on their own if they are not proficient in English.

The House of Ruth used the grant funds to retain Antonio Arenas who serves as an Hispanic outreach advocate. His duties include: providing information and referral services; safety planning, and legal assistance to Hispanic and foreign-born victims of

cont. on next

Hispanic Community

domestic violence through the POARP projects; conducting outreach within the Hispanic community to promote the project, as well as the Spanish-language forms and resources available from the Administrative Office of the Courts (AOC) and the Spanish-language Forms Helpline operated by the Women's Law Center under a grant from the AOC; and creating and distributing a Spanish-language outreach brochure. Full representation continues to be provided by existing POARP attorneys.

The Hispanic outreach advocate also handles intakes at the POARP projects for foreign-born victims, primarily those who are Spanish speakers. The advocate provides Hispanic victims with culturally sensitive services including information about legal rights to enhance their safety which may

include protective orders, criminal remedies, and advocacy. He also conducts outreach in the Hispanic and immigrant communities and with organizations serving these populations. Finally, Arenas refers Hispanic victims to available social services and serves as a link between the victim and community-based services. By coordinating POARP and related court-based domestic violence legal services programs, the project partners hope to ensure all programs are more responsive to Hispanic and foreign-born victims.

This project was supported by 2005-WF-AX-0050, awarded by the U.S. Department of Justice. The Assistant Attorney General, Office of Justice Programs, coordinates the activities of the program offices and bureaus. Points of view or opinions contained within this article are those of the author and do not necessarily represent the official position or policies of the U.S. Department of Justice.



Around Maryland

OCEAN CITY MARATHON BENEFITS "LOWER SHORE CASA"

By Anne Turner, Family Services Coordinator

Lower Shore CASA held its second annual marathon on Saturday, April 8, in Ocean City. The marathon included a "Kids Fun Run," the half marathon at 13.1 miles, and the full marathon at 26.2 miles.

The marathon began at the Ocean City Inlet and wound its way through the beautiful landscape of Route 611 to Assateague Island and back to the Sunset Marina in West Ocean City. More than 1,000 runners participated in this year's marathon with participants coming from all over the East Coast.

Lower Shore CASA serves Worcester & Wicomico Counties and trained CASA advocates have been appointed to more than 73 CINA cases in the past four years. This is a wonderful event, staffed by volunteers, for a good cause!

More information regarding this event is available at extremedreamevents.com. If you would like to volunteer, please call Worcester County Youth & Family Counseling at (410) 641-4598.

Maryland Faith-Based Domestic Violence Organizations Serve as Resources

by Clifton Files, Esq., Domestic Violence Specialist

Two coalitions within the faith community are designed to help pastors and religious professionals respond more effectively to the needs of domestic violence survivors and their families. The Domestic Violence Interfaith Coalition of Maryland (DVICM) is a new statewide organization established to educate and assist clergy and other ministry personnel in responding to domestic violence issues. The Abused Persons Program of Montgomery County houses a similar program called the Interfaith Community Against Domestic Violence (ICADV). Both the DVICM and the ICADV offer workshops and act as a resource for faith-based institutions.

Public awareness of domestic violence has increased considerably since the first shelter for battered women in the United States opened in St. Paul, Minn., in 1973 and the first batterers program opened in Boston in 1977. Unfortunately, many individuals, families, and institutions still do not recognize this pervasive societal problem.

Faith-based organizations can play an important role in helping individuals respond to violence within their families. In 2000, a study conducted by the Greenberg Quinlan Research Group () surveyed a random sample of 1,000 people. Of that group, 83 percent responded that their spiritual faith and religious beliefs were closely related to their state of mental and emotional health, and most preferred to speak with a pastor or person with religious training over a professional mental health counselor. In another study, among African-American respondents, 97 percent said emotional and mental health was closely tied to spirituality. [Woodruff, C. Roy, "New National Survey Affirms Desire for Pastoral Counseling," *Currents* 39,2 (Spring 2001); 21,2.]

Because of the often life-altering experience suffered by crime victims, many seek help to address a range of needs including spiritual needs. The faith community is not always equipped to aid the traumatized, especially when the perpetrator or source of the abuse is a loved one. How a faith leader reacts to victims of domestic violence can affect both victim and abuser alike, for good or ill.

- Educating faith-based organizations on domestic violence and how to support victims in their communities;
- Providing clergy and other ministry staff with tools/techniques to assist victims;
- Supplying domestic violence resource materials and organization information to clergy and ministry personnel;
- Establishing a network with existing domestic violence organizations and agencies to assist in reaching faith-based organizations to address domestic violence issues;
- Offering free regional domestic violence training programs to clergy and ministry staff throughout the state of Maryland, including under-served populations and
- Hosting a statewide conference for clergy and ministry personnel to continue the education process on domestic violence.

The Domestic Violence Interfaith Coalition of Maryland has held at least five workshops throughout the state since October 2005, and gave a presentation at the Interfaith Community Against Domestic Violence Eighth Annual Training for Faith Communities about Domestic Violence on April 26. The conference was designed especially for clergy, religious educators, youth ministers, outreach ministers, others whose role in the congregation includes giving counsel, and interested lay people.

■ **The Interfaith Community Against Domestic Violence Abused Persons Program of Montgomery County**
1301 Piccard Drive, 400
Rockville, Md. 20850
Phone: (240) 777-4891

■ **Domestic Violence Interfaith Coalition of Maryland, Inc.**
1290 Bay Dale Drive, #332
Arnold, Md. 21012
Phone: (410) 562-9171
Fax: 1-443-782-2660
Email: dvicml@msn.com, Web: dvicm.org

Committee on Family Law Update

The Committee on Family Law has continued to meet to review and recommend Judiciary positions on legislation and to monitor the work of the various subcommittees.

■ Child Support Subcommittee

In addition to reviewing pending legislation, the Child Support Subcommittee has provided input to the Department of Family Administration's strategic planning process, recommending – among other things – public access computers for attorneys to calculate support on-site, the promotion of employment support programs for payors, public education on child support issues, and the development of videos or presentations for statewide use. The committee also recommended that the Judiciary work with the Child Support Enforcement Administration on a future revision of the guidelines.

■ Custody Subcommittee

The Custody Subcommittee, now chaired by Court of Special Appeals Judge Deborah S. Eyler has decided to take on two new projects in 2006. The first project entails reviewing parenting coordination laws to see if, or to what extent, a rule or statute should be proposed for Maryland. Subcommittee members are currently reviewing other state parenting coordination laws. After completing this project, the Custody Subcommittee plans to draft standards of practice for custody evaluations.

In addition to the two new projects, the Custody Subcommittee continues to monitor the status of the Standards of Practice for Court-Appointed Lawyers Representing Children in Custody Cases. In February, the Standards were forwarded to the Attorney Subcommittee of the Standing Committee on Rules of Practice and Procedure for their consideration. After review, the Attorney Subcommittee forwarded the proposed Standards to the full Rules Committee, recommending their adoption. The full Rules Committee reviewed the standards briefly at their March meeting, but postponed final consideration until after the conclusion of the legislative session. Several bills pending at the time the committee met would have addressed the court's ability to appoint best interest attorneys.

■ Domestic Violence Subcommittee

At their February meeting the Domestic Violence Subcommittee was briefed on the submission of a grant application by the Department of Family Administration to the statewide domestic violence database. The department has applied for a GTAP (Grants to Encourage Arrest Policies) grant to provide funding to Judicial Information Systems to aid them in completing the project. In addition to reviewing pending legislation the subcommittee has also been participating in the development of the revised domestic violence benchbook and monitoring the debate on access to court records, the new District Court Integrated Domestic Violence Court in Baltimore City, and the management of the self-certification process for abuser intervention programs.

■ Juvenile Subcommittee

In December 2005, the Juvenile Subcommittee provided training for juvenile judges and masters on the new competency evaluation statute, HB802/05, which took effect December 31, 2005. Subcommittee Chair, Master Erica Wolfe, presented an overview of the statute. Jay A. LeBow, MD, LLB, and Kathy Perkins, both from the Department of Health and Mental Hygiene, explained the components and procedures to follow when a competency evaluation is necessary for the alleged delinquent. Individuals who missed the training may view a videotape of the course. For more information or to obtain a copy of the videotape, contact Joan C. Dudley, Juvenile Justice Specialist, joan.dudley@mdcourts.gov or (410) 260-1727.

The Juvenile Subcommittee has been very active in reviewing the large volume of juvenile justice bills filed this session. The subcommittee has also begun planning the Delinquency Day at the Child Abuse, Neglect, and Delinquency Options (CANDO) Conference scheduled for October 2006.

Family Bills That Became Law –

The following is a brief summary of family law bills that were passed by the General Assembly and became law at the conclusion of the 2006 Legislative Session. This list is not exhaustive. You can obtain detailed information on these and other bills and the complete text of each bill at: <http://mlis.state.md.us/#bill>.

Adoption/TPR

HB 334 Family Law - Adoption Search, Contact, and Reunion Services - Relatives and Members of the

Expands availability of adoption search, contact and reunion services within SSA to not only children, adoptive and biological parents, and siblings, but also to include children, aunts or uncles of a biological parent. Permits those individuals to be located as a result of a search as well. Authorizes confidential intermediaries to contact relatives for potential contact with the person searching. Sets terms of extending search if person sought is deceased. Effective 10/1/2006

HB 978 Permanency for Families and Children Act of 2005 - Revision

Alters provisions of the Permanency for Families and Children Act of 2005, to reinstate a right to counsel for a minor when consent to guardianship or adoption is given, to clarify a certain right to counsel applies only during the minority of the prospective adoptee, and to provide for additional specific instances in which a parent's consent for adoption or guardianship is not required. Effective 6/1/2006

Child Abuse and Neglect

HB 168 Children's Trust Fund

Establishes a Children's Trust Fund to be generated from the funds collected from the issuing of commemorative birth certificates, to fund the "Child Abuse and Neglect Centers of Excellence Initiative." Effective 7/1/2006



HB 1648 Department of Human Resources - Child Abuse and Neglect - Differential Response System Study

Requires the Department of Human Resources to conduct a Differential Response System Study on the implementation of a differential response system for allegations of child abuse and neglect in the State. Requires the Department to submit a report on the findings and statutory recommendations of the Study on or before December 1, 2006. Effective 6/1/2006

SB 294 Children, Youth, and Family Services - Local Management Boards, State Coordinating Council, and

Establishes a local management board and local coordinating council in each county. Establishes the State Coordinating Council for children. Creates the Children's Cabinet Fund from which the local management boards are to apply for funding for local interagency services delivery systems in accordance with a community partnership agreement. Effective 10/1/2006

SB 375 Health - General - Residential Treatment Centers - Changes in Condition

Requires residential treatment centers to notify residents and their representatives, family members, legal guardians, or custodians of a change in condition, an adverse event, or corrective action within 24 hours of an occurrence. Requires residential treatment centers to document these notifications and any responses in the resident's medical record. Permits individuals to waive the notice requirement. Effective 10/1/2006

SB 792 Child Welfare Accountability Act of 2006

Requires the Secretary of Human Resources and the Secretary of Budget and Management to develop and implement a specified system of

[cont. on next](#)

2006 Legislative Session

accountability to measure the efficiency and effectiveness of specified child welfare services. Provides for the purpose of the outcome measurement system. Requires a variety of indicators to be used to measure the effectiveness of specified child welfare services. Requires assessments of local departments of social services every three years. Requires the Department of Human Resources to establish a child welfare training academy to providing training on best practices for child welfare staff, foster parents, and kinship caregivers. Permits the Department to also provide training for the State Citizen's Review Board for Children staff and volunteers and Court Appointed Special Advocate staff and volunteers. Effective 7/1/2006

Child Counsel

HB 700 Family Law - Court-Appointed Lawyer for Child

Authorizes the court to appoint a lawyer to represent a minor child in an action in which custody, visitation rights, or the amount of support of a minor child is contested. The court may appoint the attorney to serve as a child advocate attorney or as a best interest attorney. Provides that a lawyer appointed as such shall exercise ordinary care and diligence in the representation of a minor child. The term "best interest attorney" is intended to replace the term "guardian ad litem." Effective 6/1/2006

Child Support

HB 272 Child Support Enforcement - Affidavit of Support

Creates an administrative process for child support by consent. Permits the local child support office to have the parties execute an "affidavit of support" when they agree to a child support amount. The affidavit becomes immediately enforceable.

The definition of "child support order" is changed to include an "executed affidavit of sup-

port." Either party may rescind the affidavit within 60 days after execution. The agency must file the executed affidavit within 30 days after the 60-day rescission period has ended. Effective 1/1/2007

HB 453 Child Support - Settlement of Arrearages - Best Interest of the Child

Establishes that the authority of the Child Support Enforcement Administration to settle child support arrearages is subject to the best interest of the child. Effective 10/1/2006

HB 654 Family Law - Child Support - Settlement of Arrearages

Establishes that it is in the best interest of the State for the Child Support Enforcement Administration to settle child support arrearages where support has been assigned to the State if the obligor and the child who is the subject of the support order have resided together for at least the 12 months immediately preceding a request for settlement, and the other party is deceased, incapacitated or otherwise unavailable to reside with the obligor and the child. This bill was intended to overcome the problem presented in *Harvey v. Marshall, et. al.*, 389 Md. 243 (2005). Effective 10/1/2006

SB 43 Family Law - Earnings Withholding - Notice of Change of Address or Employment

Provides more detail on when obligor must notify court of change of address or employment, where there is a child support order without an EWO. Obligor must notify court within 10 days of "moving to a new address" or "within 10 days after receiving the first earnings from a new employer." Previous language just said obligor must notify court within 10 days of a change of address or change of employment. Also specifies means of notification: 1) notice to court to be by certified mail, return receipt requested, or filing in person and obtaining proof of filing; 2) to CS agency by certified mail, return receipt requested or by website, if allowed; and 3) to payee by first class mail. Effective 10/1/2006

Family Bills That Became Law —

Custody

SB 76 Family Law - Denial of Custody or Visitation - Murder Convictions

Unless there is clear and convincing evidence for good cause, precludes court from awarding custody or visitation of a child to a parent who has been found guilty of murdering the other parent, another child in the family or another family member. Court may approve supervised visitation if in child's best interest. Effective 10/1/2006

Domestic Violence

HB 1056/ SB 25 Family Law - Domestic Violence - Address Confidentiality Program

Requires the Secretary of State to establish an Address Confidentiality Program for victims of domestic violence. The purpose of the program is to permit state and local agencies to respond to requests for public records without disclosing the location of a victim of domestic violence and to aid agencies in collaborating to protect victim confidentiality. The program will permit the victim to knowingly and voluntarily designate the Secretary of state as their agent for purposes of service of process and receipt of first-class, certified or registered mail. Participation in the program is for 4 years unless cancelled or withdrawn.

Program participants may request that any state or local agency to use the substitute address. Agencies with a bona fide need to know the victim's actual address may apply to the Secretary of State for a waiver to use the actual address for a limited purpose. Effective 10/1/2006

Juvenile Justice

HB 206 Education - Juvenile Services Alternative Education Program

Repeals the law establishing the Juvenile Services Alternative Education Programs and its Advisory Board. Effective 7/1/2006

HB 273 Juvenile Services - State Comprehensive Juvenile Justice 3-Year Plan

Altering the time frame from calendar year to fiscal year for which the State Comprehensive Juvenile Justice 3-Year Plan is to be submitted to the General Assembly. Effective 7/1/2006

HB 310 / SB 228 Drunk and Drugged Driving - Young Drivers - License Suspension

Alters the required period for suspension of a license where a youth has been found to have committed a delinquent act in violation of § 21-902 of the Transportation Article (driving under the influence of drugs or alcohol).

Formerly, a finding of driving under the influence of alcohol or driving while impaired by a controlled dangerous substance was to be treated as a conviction; violations of driving while impaired by alcohol, by drugs or by drugs and alcohol were 6 months for a first offence and 1 year for a second offense. Under the new bill, all violations are treated similarly: all first offenses require a 1-year suspension; all second offenses require a 2-year suspension. Suspensions are to be concurrent with suspensions arising out of similar violations. The bill permits, and in some instances requires, the consolidation of related hearings. Effective 10/1/2006

HB 475 Correctional Services - Correctional Units - Mutual Aid Agreements

Authorizes mutual aid agreements between specified local and State correctional units including those operated by the Department of Juvenile Services, to supply temporary services to alleviate emergency situations at correctional facilities. Effective 10/1/2006

HB 653 Juvenile Law - Informal Adjustment - Substance Abuse Treatment Program

Extends the time period of an informal adjustment process concerning a child who is the subject of a complaint filed with a Department of Juvenile Services if the officer determines that additional time is needed for the child to complete a substance abuse treatment program. Effective 10/1/2006

2006 Legislative Session

HB 686 Delinquency Prevention and Diversion Services Task Force

Establishes a Delinquency Prevention and Diversion Services Task Force and requires the task force to submit a report to the Governor and several other entities by July 1, 2007. Effective 7/1/2006

HB 1257 Juvenile Law - Competency - Services

Authorizes the juvenile court to order the Department of Health and Mental Hygiene or a qualified expert to conduct an evaluation of a child's competency to proceed. Defines "qualified expert." Outlines what the court may order if at a competency hearing the court finds the child is: 1) incompetent but likely to attain competency in the foreseeable future; 2) incompetent and unlikely to attain competency in the foreseeable future; 3) incompetent and has a developmental disability; 4) incompetent and has a mental disorder and is a danger to himself or others. The bill requires that when the Department of Health and Mental Hygiene has been ordered to conduct an evaluation, they shall submit a written report to the court within 90 days. The court is required to hold a competency hearing within 15 days of receiving the report. Finally, the bill provides the conditions under which the court must dismiss the petition and circumscribes how and where the child may be placed. Effective 10/1/2006

SB 291 Crimes - Restitution - Victims and Payments

Expands the list of entities to which restitution can be ordered to be paid for the commission of offenses relating to destructive devices and toxic materials. Expands the list of persons to whom a court is authorized to order restitution. Establishes priorities for the payment of restitution to a victim. Requires that the Department of Juvenile Services forward restitution to the person or governmental unit specified in the judgment. Effective 10/1/2006

SB 468 Criminal Law - Credit Card Crimes - Use of Affidavit by Credit Cardholder in Criminal Case

Authorizes in a criminal case or juvenile proceeding involving a violation of a credit card crime the introduction of the affidavit of a lawful credit

cardholder as substantive evidence that the credit card or credit card number was taken, used, or possessed without the authorization of the credit cardholder. Effective 10/1/2006

SB 508 Victim's Rights -Leave to Appeal-Delinquent Acts

Alters the definition of a "violent crime" to include a delinquent act that would be a crime of violence if committed by an adult. This means that the victim may now file an application for leave to appeal from an order that denies or fails to consider certain victim's rights. Effective 6/1/2006

SB 882 At-Risk Youth Delinquency Prevention and Diversion Programs

Establishes the Coordinating Council on At-Risk Youth Delinquency Prevention and Diversion Programs; providing for the membership and duties of the Coordinating Council; specifying requirements for at-risk youth delinquency prevention and diversion programs. States that it is the intent of the General Assembly that the Governor shall include an appropriation of at least \$10,000,000 in the Fiscal Year 2008 budget to fund at-risk youth delinquency prevention and diversion programs. Effective 7/1/2006

Marital Property

SB 353 Family Law - Property Disposition in Annulment or Divorce - Transfer of Real Property

Authorizes a court in an annulment or absolute divorce to transfer, subject to the consent of lienholders, ownership of an interest in the family home from one or both parties to either or both parties. Effective 10/1/2006

Marriage

HB 291 Howard County - Marriage License Fee - Increase Ho. Co. 18-06

Increases the maximum amount of the additional marriage license fee for Howard County up to \$50. Effective 10/1/2006.

Publication Helps Families Dealing with Child Sexual Abuse Navigate Legal System

by Clifton Files, Esq., Domestic Violence Specialist

“Discovering that your child may have been sexually abused is one of the most terrifying experiences a parent can have. Children, by their very nature, may be unable to clearly express to anyone what happened to them, much less be able to explain the events to a judge or jury.”

The Sexual Assault Legal Institute (SALI), part of the Maryland Coalition Against Sexual Assault, has recently published a booklet titled *Understanding the Legal System When Your Child Has Been Sexually Abused*. Child sexual abuse is under-reported. As stated in the new publication, it is estimated that one in three girls and one in six boys are sexually abused before they are 18 years old.

Understanding the Legal System identifies legal terms, outlines procedures, and helps families dealing with abuse understand how best to navigate and support the legal system.

The booklet, which is easy to read and understand, offers insight into issues such as:

- Emotional recovery for victims and family members;
- The emotional, physical, mental, and behavioral effects of child sexual abuse;
- Difficulties in disclosing child sexual abuse;
- The legal system in child sexual abuse cases;
- Child Protective Services;
- The criminal case;
- Peace and protective orders;
- Divorce, custody, and visitation;
- Civil or tort lawsuits; and
- Resources.

The publication clearly states it does not provide legal advice or representation and it encourages consultation with an attorney. The booklet was supported by a Special Projects Grant from the Department of Family Administration of the Administrative Office of the Courts. The booklet states that there is no psychological test that can tell whether someone is a child molester.

The booklet concludes by reiterating how vital it is to continue to seek information and knowledge about the legal system, the emotional needs of children, and safety issues for the family. It encourages discussion about child sexual abuse with professionals who are involved with and support parents and family members.

To request a copy, contact:

Sexual Assault Legal Institute (SALI)
A Program of the Maryland Coalition Against Sexual Assault
P.O. Box 8782
Silver Spring, MD 20907



Foster Care Court Improvement Project (FCCIP) Update

by Tracy Watkins-Tribbitt, Director, FCCIP

The Foster Care Court Improvement Project is finally fully staffed, re-energized, and preparing for road trips! In March the FCCIP team began visiting local jurisdictions to meet with juvenile judges and masters, observe court proceedings, review court files, and compare data. The purpose of the site visits is to assist courts with implementing child welfare best practices as well as other initiatives proposed by the FCCIP, to collect additional data to substantiate preliminary results of the current workload assessment, and to provide technical assistance in any identified areas. FCCIP staff hope to assist the courts in identifying local resources to help implement their initiatives.

The FCCIP team has finalized the Best Practices manual which debuted at the October 2005 Child Abuse, Neglect, and Delinquency Options (CAN-DO) conference. The team will be forwarding the document to all jurisdictions and will address many of the recommended best practices during the site visits.

Legislative Subcommittee

The Legislative Subcommittee identified and recommended amendments to the Permanency for Families and Children Act 2005. These amendments were submitted in the Judiciary's legislative packet and, at the time of this writing the bill, HB 978/SB 795 had passed both houses of the General Assembly and had been signed into law by the governor. Members of the subcommittee are working on revising the consent forms in Title 9, Chapter 100, of the Maryland Rules, to coincide with the newly enacted legislation and to provide information in a consistent and easy to understand format. These forms will be used for agency, independent, and private adoptions throughout the state of Maryland. Finally, the Legislative Subcommittee is currently looking at the Child in Need of Assistance (CINA) statute for possible updates in 2007.

In December 2005 and January 2006 members of the Legislative Subcommittee sponsored a

training for juvenile clerks and court personnel on the Permanency for Families and Children Act 2005. The training provided a brief summary of the law and highlighted those areas in the law that would have a direct impact on the juvenile clerk's work. Nearly all jurisdictions were represented at the trainings. The training sessions were conducted by Cathy Shultz, Esq., of the Attorney General's Office, and Rhonda Lipkin, Esq., of the Public Justice Center. For more information regarding the Legislative Subcommittee, please contact Erica LeMon, Esq., FCCIP Permanency Court Coordinator at (410) 260-1428.

Representation, Practice, and Procedure Subcommittee

The Representation Subcommittee is continuing to work with the Clerk of the Court of Special Appeals, Leslie Gradet, to identify issues and barriers to the expedited appeals process for CINA and related Termination of Parental Rights (TPR) cases. The FCCIP's intern, Jessica Wible, has begun to gather data on the appellate practice. Additionally, the subcommittee has redrafted the Notice of Appeal form to assist with identifying the appropriate parties that should receive notice of an appeal and to ensure that the expedited timeline for CINA and related TPR appellate matters is properly enacted. The subcommittee is also exploring possible training topics and opportunities for attorneys. For more information regarding the Representation Subcommittee, please contact Hope G. Gary, Esq., FCCIP Assistant Director at (410) 260-1728.

Statistics Oversight Subcommittee

The Statistics Oversight Subcommittee has recently made relevant updates to the uniform court orders which are being utilized in most jurisdictions throughout the state. The orders have been approved by the FCCIP Implementation Committee and have been disseminated to all jurisdictions. FCCIP staff are currently working with JIS to have the

Recent Family Law Decisions

by Pamela Cardullo Ortiz, Esq., Executive Director, Family Administration

Family Matters highlights recent reported decisions of the Maryland Court of Appeals and Court of Special Appeals that address family law issues. Copies of reported opinions are available online at <http://www.courts.state.md.us/opinions.html>.

■ Court of Appeals

Appellate Review - Scope

In re: Kaleb K., No. 43, September Term, 2005. Filed January 11, 2006. Opinion by Battaglia, J.

Petitioner did not properly preserve his argument in an oral motion to dismiss a petition alleging delinquency where the original motion was premised upon the wrong statute both in citation and substance. Petitioner cannot therefore now appeal on the grounds of a second statute, not referenced in the original motion below.

Petitioner based his original motion to dismiss on CJP 3-8A-10 which required that actual prejudice was incurred by the Petitioner. On appeal he cited instead CJP 3-8A-13 which requires the State to bear the burden of proof of good cause for the delay before the circuit court. There is no record to indicate that the issue of whether the State established good cause for the delay was presented to or decided by the trial court. Petitioner preserved his right to appeal the denial of the motion to dismiss, but he did not preserve his argument.

Child Counsel

Fox v. Wills, No. 43, September Term, 2003. Filed January 18, 2006. Opinion by Eldridge, J.

An attorney appointed pursuant to FL § 1-202 is not entitled to any type of immunity from a malpractice suit. Where courts in

other jurisdictions have decided that individuals appointed on behalf of minors function in a 'judicial' capacity, the courts have typically done so in accordance with statutes that define the duties of such individuals. FL § 1-202, which furnished the basis for the appointment of counsel here, appears to have no historical linkage to the concept of "guardian ad litem" and neither the language or history of the statute suggest the attorney is appointed to serve as an agent or arm of the court.

CINA

In re: Katherine C., No. 32, September Term, 2005. Filed January 17, 2006. Opinion by Cathell, J.

A juvenile court may apply the Child Support Guidelines to calculate child support where a child is in the custody of a government agency, although the total support awarded may not exceed the actual costs expended by the governmental agency. To satisfy due process, the subject matter of the hearing must be reasonably ascertainable from the notice provided and the surrounding circumstances of the action. Here adequate notice of the child support hearing was not provided to the appellant where it was calculated at a permanency planning hearing with no prior notice that child support would be at issue. Judgment ordering support vacated.

In re: Sophie S., No. 203, September Term, 2005. Filed February 2, 2006. Opinion by Sharer, J.

FL § 3-819(3) permits the court to make a disposition in a CINA case short of foster care or other placement by granting custody to one parent before dismissing the case when one parent is fit and the other unfit. Before doing so, the court must first find and articulate that the allegations of



the petition have been sustained as to one parent. Here the trial court failed to make the required findings before dismissing the case against the mother who had abandoned the child and granting custody to the father.

■ Court of Special Appeals

Alimony

Simonds v. Simonds, No. 280, September Term, 2004. Filed November 18, 2005. Opinion by Murphy, C.J. Concurring Opinion by Adkins, J.

In determining whether appellant wife is entitled to indefinite alimony, the trial court should determine the parties' actual income or earning potential as of the day they were married and the date of their divorce, determine whether and/or to what extent appellant contributed to appellee's professional success during the marriage, and include that contribution in its FL § 11-106 calculation. Here the trial court ordered rehabilitative rather than indefinite alimony, and based its calculations on conflicting factual findings, attributing one annual income amount to husband in calculating child support, and a lower amount for evaluating alimony. Judgment remanded so the trial court can resolve conflicting factual findings regarding the appellant husband's annual income.

Applicability of Foreign Laws

Moustafa v. Moustafa, No. 2517, September Term, 2004. Filed December 23, 2005. Opinion by Murphy, C.J.

A party who wants the court to apply the law of

a foreign country must comply with the "notice" and "proof" requirements of CJP § 10-505. The trial court neither erred nor abused its discretion in granting appellee wife's claim for annulment of a bigamous marriage even though appellant husband claimed they were married in a foreign country where the law permits a man to be married to more than one woman at the same time. At trial, appellant husband did not provide the proper notice of evidence. Unless the law of a foreign jurisdiction is proved to be otherwise, it will be presumed to be the same as the law of the forum state. *Maple v. Maple*, 566 P.2d 1229 (Utah 1977).

Marital Property / Child Support

Frankel v. Frankel, No. 708, September Term, 2003. Filed November 17, 2005. Opinion by Murphy, C.J.

The trial court did not abuse its discretion in finding the wife was entitled, after separation, to an interest in the husband's deferred compensation plan held as stock option benefits. The trial court also properly applied a coverture fraction to determine the marital portion of the unexercised stock options, providing an "if, as, and when" transfer of funds to which the former wife will be entitled. Here the wife took nearly 100 percent responsibility for the child and household, enabling the husband to focus on and succeed in the job that provided such benefits. The court rejected wife's request, however, that the court enter an order transferring the benefits to her and imposing a constructive trust. The court instead used an "if, as and when" provision.

There is no conflict between the Federal Consumer Protection Act and the Maryland

Recent Family Law Decisions, from 21

Child Support Guidelines. The former simply limits the amount that a court can order garnished from wages; it does not limit the amount a court can order for child support. Here the parties' combined monthly income exceeds \$10,000 and thus the guidelines do not apply. The trial court did not abuse its discretion in awarding child support.

Marital Property

Bennett v. Wright, No. 128, September Term, 2004. Filed February 24, 2006. Opinion by Sharer, J.

The trial court correctly ruled that appellee's sub-ownership of a split-dollar endorsement to an insurance policy was not an asset that was required to be transferred from appellee to appellant's corporation under the terms of a separation agreement. The corporation owned the insurance policy; appellant had been the original sub-owner but had transferred his sub-ownership to the appellee prior to the execution of the separation agreement. When, in the separation agreement, appellee agreed to transfer her interests in the corporation to appellant, that transfer did not include her sub-ownership of the split-dollar endorsement.

Richards v. Richards, No. 491, September Term, 2004. Filed December 22, 2005. Opinion by Sharer, J.

Trial court was not clearly erroneous in finding that \$30,000 in an investment account was appellee's non-marital property, even though the account was titled solely in appellant's name and appellant had made a one-time contribution to the account of premarital funds. The funds derived from monies deposited into an earlier account established by the appellee's mother, for her benefit, jointly titled in the name of both parties who were managing those funds on her behalf. After her death the funds were consolidated into a single joint account. Appellant later withdrew \$100,000 from the account and placed them in an individual investment account titled solely in his name. He later made a single deposit to that account of non-

marital funds in the amount of \$40,000. At the time of the trial, \$30,000 remained in that account which the court determined to be solely appellee's non-marital property, presumably as it determined that was the residue of appellee's mother's original account. Appellant husband did not meet his burden of proof that those were traceable to his non-marital funds. Nor was there any evidence to suggest that the mother-in-law's funds had been a non-marital gift or inheritance to appellant husband.

Trial court did not abuse its discretion in finding the Nevada real property was marital, and in ordering the property be sold and proceeds divided, but by making an equitable adjustment in the amount of \$105,000 to reflect the contribution of appellee's inherited funds. Here the court properly found the property marital as it was acquired during the marriage; however the funds used to purchase the property were largely derived from appellee's inheritance. The court is not required to make an equal distribution, but an equitable one.

Termination of Parental Rights

In re: Adoption/Guardianship of Joshua M., No. 82, September Term, 2005. Filed December 23, 2005. Opinion by Woodward, J.

Rule 2-534 accords the trial court discretion to consider admissible evidence of facts occurring after the date of entry of judgment when those facts are directly related to relevant facts arising between the date of trial and the date of entry of judgment. Here the trial court did not abuse its discretion when it granted the local department of social services' motion to alter or amend and ultimately terminate appellant's parental rights, based in part on evidence of facts that occurred after the entry of the original judgment.



Green Pants, from 2

Courts test the boundaries of these constraints all the time – often in the aid of lawyers. As a law student, I remember going with classmates to observe a landlord tenant case in the District of Columbia. The defendant was an elderly woman who was more enamored of animals than of cleanliness. The co-op association, her neighbors, wanted her to put a diaper on her dog or move out. We called it “The Case of the Doggie Diaper.” Both parties were represented. The elderly woman was represented by an obviously new attorney. Opponents’ counsel was a high-powered blue-suited Georgetown lawyer who used his obvious experience to bully the new attorney in the courtroom. Before long the new attorney was in tears, questioning her witness while choking back sobs. The judge had obviously had enough of the humiliation and began helping her out with statements like, “I will now entertain a motion for _____” and other rather overt hints. Was he less than neutral? Perhaps, but no one in that courtroom felt the elderly woman had an unfair advantage when it was all said and done. I am not suggesting judges go so far out of their way for the self-represented, but only suggest that courts are not always so rigid in addressing questions of neutrality, fairness, and independence.

Courts around the county have attempted to balance the issues, and they have done so in a variety of ways. At a recent conference I attended in New York on court responses to the self-represented, panelists described some of the different models they have used to provide direct assistance to the self-represented, as well as ways they have aided judges and court staff in responding to the self-represented. Each court has had to craft its response in a manner that satisfies state law, court rules, and the comfort of its own judges and the legal community within which that court operates. Each court has also crafted its response in relation to the needs of those specific individuals who appear before it. The range of responses adopted by our sister states suggests that our courts too can identify the needs of litigants, identify the constraints within which our courts must craft a solution, and ultimately tackle the tough but solvable problem of how to respond effectively and ethically to needs of the self-represented.

FCCIP Update, from 19

orders placed on the Web site in fillable PDF format to enhance the usability of the forms.

The Statistics Oversight Subcommittee continues to work toward improving the various systems throughout the state in an effort to have a reliable system to maintain statewide CINA and related TPR and adoption statistics. Harry Amarantidis and Carolyn Ross have conducted a few quality assurance site visits to verify the integrity of the data that is being put into the various juvenile database systems throughout the State. Harry and Carolyn are also a part of the visiting team for the jurisdictional site visits and will administer the quality assurance protocol for each site. The subcommittee looks to begin addressing other areas outlined in the Strategic Plan very soon. For more information regarding the Statistics Subcommittee, please contact Carolyn Ross, FCCIP Specialist at (410)260-1259.

Training Subcommittee

The Training Subcommittee has begun planning for the Ninth Annual Child Abuse, Neglect and Delinquency Options Conference to be held October 15-18 at the Harbourtowne Golf and Conference Center in St. Michaels.

The training subcommittee has identified a vendor who has begun the process of updating the FCCIP child welfare benchbook. With the passage of the Permanency for Families and Children Act of 2005, as well as other significant changes in child welfare law and the development of the Best Practices Manual, the subcommittee is hopeful that the planned updates will continue to make the benchbook a useful resource.

The subcommittee is also preparing for this year’s Judicial Institute course which will offer a detailed session on the new Permanency for Families and Children Act 2005. Members are also brainstorming topics for the 2007 course.

For more information or questions regarding the Training Subcommittee or suggestions for next year’s conference, please contact Tracy Watkins-Tribbitt, MSW, Director of the FCCIP, at (410) 260-1272.

Department of Family Administration

Administrative Office of the Courts
Maryland Judicial Center
580 Taylor Avenue
Annapolis, MD 21401

Presorted
Standard
U.S. Postage
PAID
Jessup, MD
Permit No. 13

mark your calendar

| | | |
|----------------|--|--|
| October 16-18 | Child Abuse, Neglect & Delinquency Options (CANDO) Conference, St. Michaels | FCCIP(410) 260-1580 |
| November 13-17 | 40-hour Basic Mediation CourseTrainer: To be announced. Annapolis | Althea Stewart Jones (410) 260-1580 |
| December 1 | 3 rd Maryland Mediators Convention Maritime Institute, Linthicum Heights (near BWI Thurgood Marshall Airport) | MACRO (410) 841-2260 |
| December 11-13 | 20-hour Child Access Mediation Course. Trainer: To be announced .Annapolis | Althea Stewart Jones(410) 260-1580 |